

REMARKS

In the action of January 9, 2004, the examiner rejected claims 1-4 and 7-9 under 35 USC §102 as anticipated by Marx *et al*, rejected claims 1-4 and 7-9 under 35 USC §102 as anticipated by Montanio, and rejected claims 1-9 under 35 USC §103 as unpatentable over Lundell *et al* in view of Marx *et al*. The examiner further indicated that claims 5 and 6 contained allowable subject matter. This indication is gratefully acknowledged by applicants.

The significance and overall function of applicants' invention defined by the claims has been previously discussed and is hence not repeated. In response to the continued rejection by the examiner, applicants have further amended claims 1 and 7 to set forth a specific time of the trial use, sixty brushings over a period of approximately one month. This is clearly a structural limitation, since it sets specific limits on the operation of the device. Furthermore, it is not variable, as it sets forth a specific time for the trial use. Hence, the examiner's reasons for rejecting the claims on that basis are no longer applicable.

Further, the limitation of a control circuit for preventing further operation of the power toothbrush (claim 1) and means for preventing further operation of the power toothbrush (claim 7) are both recited to be separate from the battery of the device. The full discharge of a non-rechargeable battery is not sufficient to meet such a limitation. Applicants' claimed invention includes positive structure/action preventing further operation of the device after the selected period of time has elapsed. Accordingly, independent claims 1 and 7 are allowable over the Marx and Montanio references. The claims dependent thereon are hence also allowable.

Independent claim 13 also includes the limitation of a control circuit which is separate from the battery of the device for preventing further operation of the toothbrush after the selected period of time has elapsed. As indicated above, this is structurally different than the discharge of a non-rechargeable battery. Accordingly, claim 13 is also allowable over the Marx and Montanio references.

In view of the above, allowance of the application is respectfully requested.

The Commissioner is authorized to charge any fees or deficiencies or credits to Deposit Account 07-1900.

Respectfully submitted,
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